



## HEA 1006 Fiscal Year 2017 Analysis

**Prepared for:**

**Indiana Department of Correction**

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## EXECUTIVE SUMMARY

### Introduction

The Department of Correction shall, before March 1 of each year, estimate the amount of operations cost savings realized each fiscal year that are attributable to the sentencing changes made in HEA 1006-2014 (IC 11-12-2-1 (b)). The Indiana Department of Correction (DOC) engaged KSM Consulting (KSMC) to complete this estimation for fiscal year 2017 (FY 2017).

As of January 1, 2016, a court may not commit a person convicted of a Level 6 Felony to the DOC, unless certain exceptions are met. The effective date for this portion of the legislation was originally intended to be June 30, 2015, but was delayed for six months. Therefore, this year's analysis of the fiscal impact of HEA 1006 is the first to fully capture the legislation's impact from the diversion of this offender population.

The summary of this fiscal analysis is divided into two sections:

1. FY 2017 Department of Correction Cost Avoidance
2. FY 2017 Department of Correction Cost Assumption

The initial sentencing reform legislation, HEA 1006-2013, revised felony category types. Previously, the DOC used an alphabetical system of categorization (i.e. A-D). Now, the State utilizes a numerical system (i.e. Levels 1-6). What are now Level 6 Felonies (F6) were previously D Felonies (FD). Historical data relating to prior FDs has been used in this analysis.

HEA 1006-2013 also included reform to minimum sentencing standards. This report does not estimate the impact of the minimum sentencing reform, but future reports may need to incorporate additional analysis regarding these changes as their impact will be realized in the coming years.

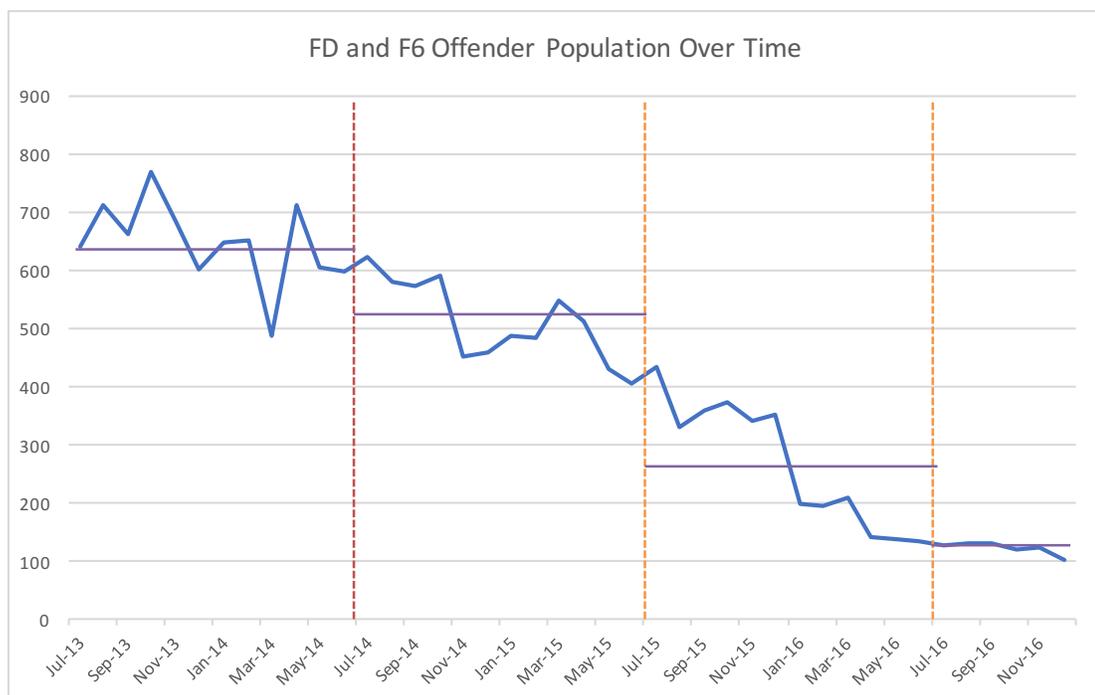
KSMC utilized data from the DOC's Offender Population Statistical Reports and Trial Court Technology's Abstracts of Judgment to conduct this analysis.

## DEPARTMENT OF CORRECTION COST AVOIDANCE

### Cost Avoidance of Redirected Offenders

Since the enactment of HEA 1006, the FD and F6 offender population in the DOC has decreased significantly. The decrease in the offender population for the 12 months before and 30 months after HEA 1006 is illustrated in Chart 1.

Chart 1



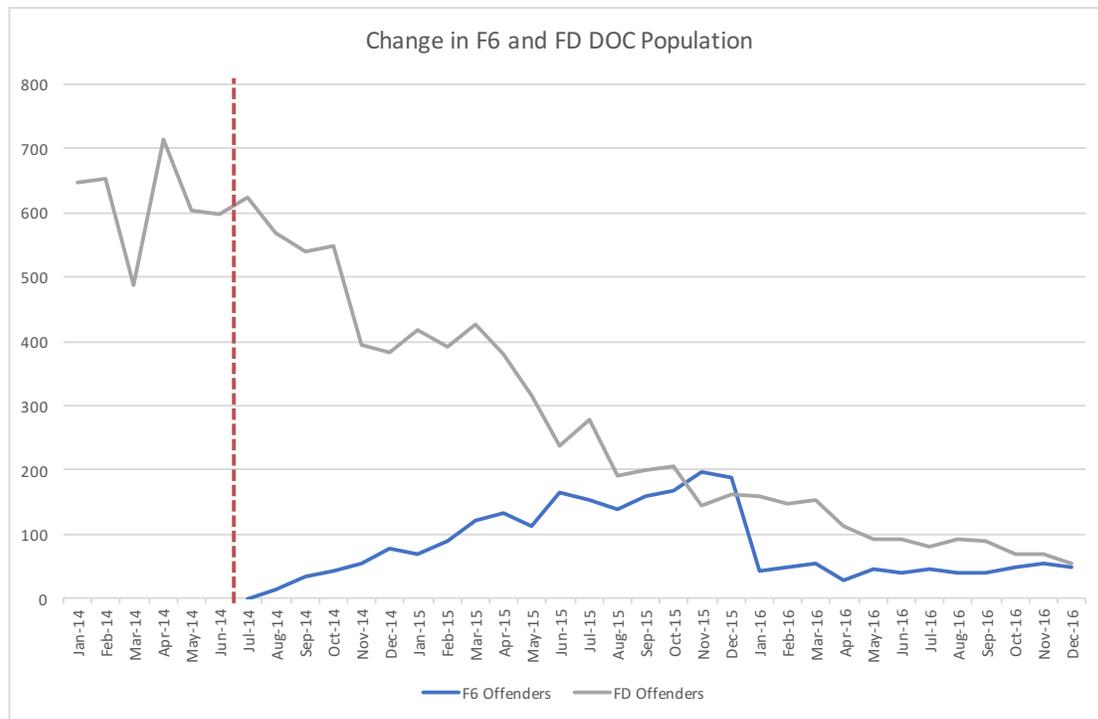
In the fiscal year prior to HEA 1006-2014, July 1, 2013 to June 30, 2014, the average number of monthly FD and F6 DOC commitments was 647. Fiscal years 2015 and 2016 saw the average drop to 511 and 267 admissions per month, respectively. The first half of FY 2017 has seen a similar decrease, averaging 123 admissions per month so far.

The basis for estimating the impact of HEA 1006 on F6 and FD offenders for the first half of the fiscal year, July 1, 2016 to December 31, 2016, is the difference between the pre-1006 average of 647 and the actual number of monthly F6 and FD admissions in this time frame.

For the second half of the fiscal year, January 1, 2017 to June 30, 2017, the impact on F6 and FD offenders was calculated using the rate of change for the diverted offenders in calendar year 2016. This rate was then utilized to estimate the continued monthly decrease in the number of F6 and FD offenders coming into the DOC.

F6 commitments have leveled off, ranging between 45 and 55 commitments per month to DOC. FD commitments continue to decline. These commitments remain from the time before HEA 1006 and will fall to zero as those court cases are closed. The rate of admission for F6 and FD offenders is illustrated in Chart 2.

**Chart 2**



The calculation for cost avoidance from diverted F6 and FD offenders is based on an average length of stay of 220 days – the average DOC stay for FD offenders in the four months prior to the HEA 1006 effective date.

The cost avoidance estimate considers diverted offenders back to December 2015 due to the length of the average DOC sentence. For example, if an F6 offender was sentenced to 220 days in the DOC in December of 2015, the cost of 10 of those days would be realized in early FY 2017. The cost avoidance calculation reflects these days extending into the current fiscal year.

Similarly, a monthly reduction in average days for the second half of FY 2017 occurs as a result of the days sentenced being greater than the days remaining in the fiscal year.

The DOC estimates that for every offender who would have otherwise been housed in a DOC facility and is redirected to the local level, between \$6.84 and \$8.91 of costs per day are avoided. This per diem cost is attributable to food, medical, clothing, and other minor expenses.

A range of per diems is utilized in this analysis primarily due to amendments in the medical services contract. The DOC is currently awarding a new contract for these services; the per diem of \$9.39 utilized for April 2017 through the end of the fiscal year is the best estimate for the new contract.

In the FY 2016 cost savings report, the per diems used for this calculation were \$9.35 and \$10.33. These higher per diem assumptions included the base rate for medical services and did not reflect variable credit received when the prison population varies from the level stipulated in the contract.

When each of these factors is accounted for, the estimated cost avoidance from F6 and FD offenders redirected from the DOC in FY 2017 is \$11,284,408.

Table 1, available in the Appendix, details this calculation.

## **Effect of Henryville Correctional Facility**

Effective August 1, 2016, the DOC closed the Henryville Correctional Facility. The effect of this closure is approximately \$2.48 million in savings during FY 2017 and was provided by the DOC for this analysis.

The total appropriation for Henryville for FY 2017 was just over \$2.52 million. The cost savings accounts for Henryville Correctional Facility operating for one month of the fiscal year and all other miscellaneous costs incurred due to closing the facility.

There has been an overall trend of a decreasing offender population in Indiana that is not entirely attributable to HEA 1006. However, the redirection of offenders from HEA 1006 may be a contributing factor in Henryville's closing and was included for the purpose of this analysis. The cost avoidance of closing a correctional facility is assumed to be a one-time occurrence for FY 2017 as the DOC budget is expected to be adjusted for the effect of its curtailed operations in future years' budgets.

## DEPARTMENT OF CORRECTION COST ASSUMPTION

The fiscal impact of HEA-1006 is not limited to the cost avoidance from redirected offenders. The DOC must consider the costs associated with community custody for both offenders diverted from the DOC as well as those offenders that historically served jail time as FD cases, which are now classified as F6.

### Location of Offender Commitments

Data relating to sentencing and location was drawn from the Abstracts of Judgment provided by the Trial Court Technology (TCT) Division with the Office of Judicial Administration Administration.

Chart 3 shows the sentencing locations found in F6 abstracts for calendar year 2015.

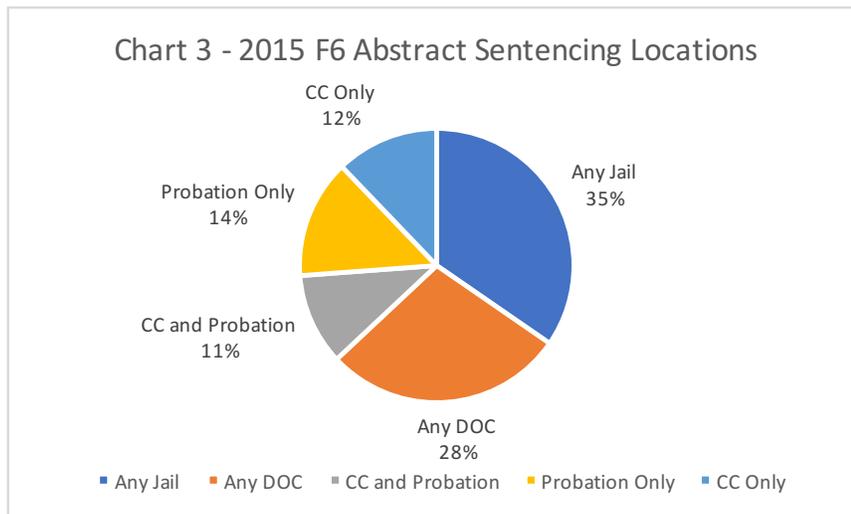
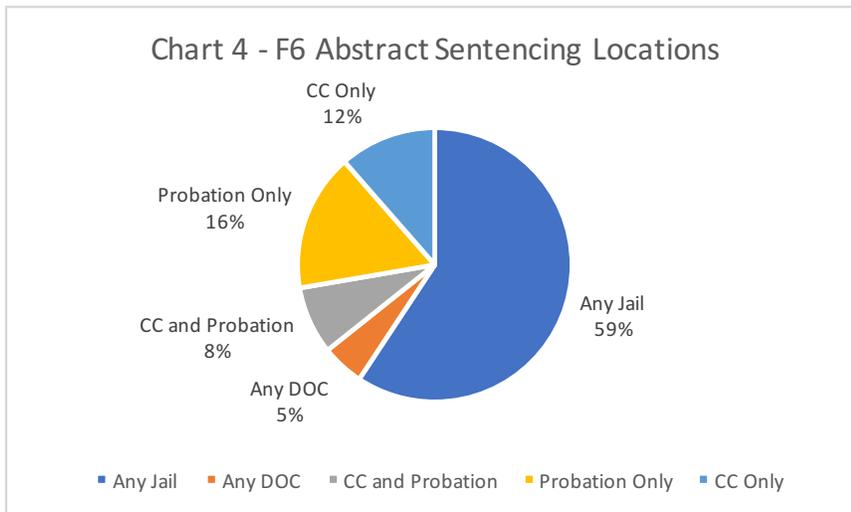


Chart 4 shows the sentencing locations for F6 abstracts for the first half of FY 2017, July 1, 2016 – December 31, 2016.



The data received from TCT indicates that almost all F6 offenders are now staying at a location within the community of sentencing. Only five percent of F6 offenders are spending time in the DOC, and those who do are most likely the exceptions to sentencing requirements in HEA 1006.

During 2016, approximately 59 percent of F6 sentences included some jail time. As illustrated in Chart 2, only 35 percent of offenders were sentenced to jail time during calendar year 2015. Community corrections and probation appear to remain mostly constant, so the change in sentencing pattern is largely a trade-off between the DOC and county jail.

## **Cost Assumption for Offenders Diverted to County Jail**

IC 35-38-3-3(f) entitles local sheriffs to a per diem and medical expense reimbursement for the cost of county jail incarceration of F6 offenders. The current per diem owed to local sheriffs is \$35 per day per offender.

The cost assumption calculation applies the per diem to the average length of stay in county jail, 70 days, and the assumption that 59 percent of F6 offenders spend some time in county jail. These factors were obtained from summaries of abstracts of judgment provided by TCT. The result of this calculation is a total cost assumption of \$9.4 million.

Table 2, available in the appendix, details this calculation.

## **Cost Assumption for FD Offenders Historically Sentenced to Jail**

Prior to the 2013 felony reclassification, F6 felonies were considered D felonies. Based on abstract data provided by TCT, approximately 60 percent of pre-1006 FD sentences involved local supervision and 25 percent of those abstracts included some jail time. Because this population, now considered F6, is not distinguishable from the DOC diverted population, the \$35 per day reimbursement to the sheriff housing the offender is an additional liability. The cost assumption for this population is estimated to be \$6.62 million.

Table 3, available in the appendix, details this calculation.

## NET COST ASSUMPTION

When the cost avoidance from diverted F6 offenders (\$11.28 million) is combined with the cost assumption of sending F6 offenders to county jail (\$9.40 million), the effect is an estimated operating savings of approximately \$1.88 million. However, the estimated costs for the FD population that historically were sentenced to jail time but are now classified as F6 (\$6.62 million) eliminate any savings and create additional obligations. This calculation is illustrated below as well as the one-time savings from the closure of the Henryville facility.

### DOC DIVERSIONS

COST AVOIDANCE-DIVERSIONS	\$11,284,408
COST ASSUMPTION-DIVERSIONS	(9,404,405)
COST ASSUMPTION-HISTORICAL	<u>(6,623,663)</u>
<b>NET FY17 COST ASSUMPTION</b>	<b><u><u>(\$4,743,659)</u></u></b>

<b>HENRYVILLE COST AVOIDANCE</b>	\$2,480,000
(one-time in FY17)	

## APPENDIX

Table 1 – Cost Avoidance

Month	Diverted Offenders	Avg. Days	Per Diem	Avoided Cost
Dec-15	295	10	\$8.91	\$26,285
Jan-16	447	40	\$8.39	150,013
Feb-16	451	70	\$8.39	264,872
Mar-16	439	100	\$8.39	368,321
Apr-16	506	130	\$8.39	551,894
May-16	510	160	\$8.39	684,624
Jun-16	512	190	\$8.39	816,179
Jul-16	520	220	\$8.39	959,816
Aug-16	515	220	\$8.39	950,587
Sep-16	516	220	\$8.39	952,433
Oct-16	528	220	\$8.39	974,582
Nov-16	523	220	\$8.39	965,353
Dec-16	543	210	\$8.39	956,712
Jan-17	549	180	\$6.83	674,980
Feb-17	555	150	\$6.83	568,305
Mar-17	560	120	\$6.83	459,031
Apr-17	565	90	\$9.39	477,573
May-17	570	60	\$9.39	321,058
Jun-17	574	30	\$9.39	161,790
<b>COST AVOIDANCE</b>				<b>\$11,284,408</b>

Table 2 – Diversion Cost Assumption

Month	Diverted Offenders	Avg. Days	Per Diem	Assumed Cost
May-16	302	10	\$35	\$105,836
Jun-16	304	40	\$35	425,005
Jul-16	308	70	\$35	755,381
Aug-16	305	70	\$35	748,117
Sep-16	306	70	\$35	749,570
Oct-16	313	70	\$35	767,002
Nov-16	310	70	\$35	759,738
Dec-16	322	70	\$35	788,792
Jan-17	326	70	\$35	797,554
Feb-17	329	70	\$35	805,808
Mar-17	332	70	\$35	813,584
Apr-17	335	70	\$35	820,908
May-17	338	60	\$35	709,550
Jun-17	341	30	\$35	357,560
<b>COST ASSUMPTION</b>				<b>\$9,404,405</b>

Table 3 – Historical FD Cost Assumption

Month	Offenders	Avg. Days	Per Diem	Assumed Cost
May-16	243	5	\$35	\$42,459
Jun-16	243	35	\$35	297,216
Jul-16	243	65	\$35	551,972
Aug-16	243	65	\$35	551,972
Sep-16	243	65	\$35	551,972
Oct-16	243	65	\$35	551,972
Nov-16	243	65	\$35	551,972
Dec-16	243	65	\$35	551,972
Jan-17	243	65	\$35	551,972
Feb-17	243	65	\$35	551,972
Mar-17	243	65	\$35	551,972
Apr-17	243	65	\$35	551,972
May-17	243	60	\$35	509,513
Jun-17	243	30	\$35	254,756
<b>COST ASSUMPTION</b>				<b>\$6,623,663</b>